## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION NO. 4:04-CR-87-3H

UNITED STATES OF AMERICA	) ) )	
v.	) ) )	ORDER
WILLIE BARRETT,	) ) )	
Defendant.	)	

This matter is before the court on defendant's motion to amend the judgment. Defendant seeks to have this court run his federal sentence concurrent to a state sentence handed down in November 2005.

Title 18 U.S.C. § 3584 provides that if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the court may run the terms concurrently. However, at the time defendant was sentenced by this court, the state court sentence had not yet been imposed. Therefore, defendant was not subject to an undischarged term of imprisonment as required by the statute.

Furthermore, the two offenses appear to be unrelated.

Therefore, defendant's motion is denied. If defendant believes

he is entitled to have his sentences run concurrently, he should petition the court that imposed the state sentence.

This <u>3/5/</u> day of May 2011.

Malcolm A. Howa

Senior United States District Judge

At Greenville, NC #26